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as individuals and as trustees for the Bottom Family
1989 Trust, and The Blue Oak Charitable Fund,
a California non-profit public benefit corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARY A BOTTOMS, as individuals and as
trustees for the Bottoms Family 1989 Trust;
THE BLUE OAK CHARITABLE FUND, a
California non-profit public benefit
corporation,

Plaintiff,

vs.

ATKN COMPANY OF CALIFORNIA, f/k/a
Guy F. Atkinson Company of California;
ATKN COMPANY, a Nevada corporation,
f/k/a/ Guy F. Atkinson Company, and DOES
1- 100

Defendants.

CASE NO. C 05 03045 EMC

**FOURTH STIPULATION AND ORDER
EXTENDING TIME TO ANSWER, AND
EXTENDING THE CASE SCHEDULE
AND INITIAL CASE MANAGEMENT
CONFERENCE; ORDER
[CIV. LOC. R. 6-2]**

The parties to this action respectfully request an additional extension of time for the
defendants to answer the complaint and for the other deadlines associated with the Answer.

The Court graciously granted our last request for an extension of time on March 20, 2006.

As reported in earlier such stipulations, the issue faced by the parties at this juncture of the
case is identifying the insurance companies who may be responsible for defending and

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FOURTH STIPULATION AND ORDER EXTENDING
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SCHEDULE AND INITIAL CASE MANAGEMENT
CONFERENCE

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indemnifying the defendant. Progress has been made along these lines. Two of ATKN's "excess" insurers have been in direct contact with the plaintiff's and defendant's counsel. But their position is that the excess carriers do not have a duty to defend ATKN. One of the primary carriers has asserted that it has no duty to defend due to an earlier settlement agreement with ATKN. The plaintiff believes that this carrier is misinterpreting the agreement.

One of the excess carriers requested in writing that ATKN and the plaintiffs seek another extension of time to allow the insurers to sort this out. The plaintiff has (reluctantly) agreed to this extension. This request was received only days before the last due date for the answer. We wrote to the Court advising that a new stipulation would be forthcoming.

We have no interest in delaying the progress of this case but we recognize that it may prove more efficient in the long run to give the insurers another short extension of time, to allow them to determine their position positively determine whether they will be providing a defense or not, than to have them complain later that they were not given adequate ability to defend their insured.

Accordingly, the parties respectfully request that the Court allow an additional, short extension of time for the defendant to answer the complaint. We are requesting an additional 30 days.

We suggest the following schedule:

	<u>Current Due Date</u>	<u>New Due Date</u>
Answer	4/20/2006	5/19/2006
Last day to meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan	5/17/2006	5/12/06
Last day to file Joint ADR Certification With Stipulation to ADR Process of Notice of Need for ADR Phone Conference	4/12/06	6/16/2006

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FOURTH STIPULATION AND ORDER EXTENDING
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CONFERENCE

1	Last day to complete initial	5/31/2006	6/28/2006
2	disclosures or state objection in		
3	Rule 26(f) Report, file/serve		
4	Case Management Statement,		
5	and file/serve Rule 26(f) Report		
6			
7	Case Management Conference	6/7/2006	7/6/2006
8	in Courtroom C, 15th Floor at		7/5/06
9	1:30 PM		

10 We also request additional time for the parties to submit to the Court their stipulation to
 11 allow Magistrate Chen to fulfill the role of District Court Judge in this matter.

12 SO STIPULATED:

13 DATED: April __, 2006

LELAND, PARACHINI, STEINBERG,
 MATZGER & MELNICK, LLP

15 By: _____

Mitchell Chyette
 Attorneys for Mary A. Bottoms, as
 individuals and as trustees for the Bottom
 Family 1989 Trust, and The Blue Oak
 Charitable Fund, a California non-profit
 public benefit corporation

19 DATED: April __, 2006

PACHULSKI STANG ZIEHL YOUNG JONES
 WEINTRAUB

21 By: _____

Henry Kevane
 Attorneys for ATKD defendants

1	Last day to complete initial	5/31/2006	6/28/2006
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7	Case Management Conference	6/7/2006	7/6/2006
8	in Courtroom C, 15th Floor at		7/5/06
9	1:30 PM		

10 We also request additional time for the parties to submit to the Court their stipulation to
11 allow Magistrate Chen to fulfill the role of District Court Judge in this matter.

12 SO STIPULATED:

13 DATED: April 28, 2006

14 LELAND, PARACHINI, STEINBERG,
15 MATZGER & MELNICK, LLP

16 By: 

17 Mitchell Chyette
18 Attorneys for Mary A. Bottoms, as
19 individuals and as trustees for the Bottom
20 Family 1989 Trust, and The Blue Oak
21 Charitable Fund, a California non-profit
22 public benefit corporation

23 DATED: April 28, 2006

24 PACHULSKI STANG ZIEHL YOUNG JONES
25 WEINTRAUB

26 By: 

27 Henry Kevane
28 Attorneys for ATKN defendants

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ORDER

Pursuant to the stipulation set forth above, the case management order and schedule are hereby changed to the dates set forth above.

Dated: May 2, 2006



Hon. Edward M. Chen
United States District Court for the Northern
District of California

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